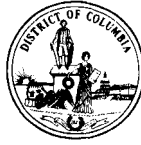


**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**BOARD OF ZONING ADJUSTMENT**



Application No. 13178, of Michael Minkoff, Ltd., pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the prohibition against allowing an addition to an existing structure which is on a lot which does not have street frontage (Sub-section 3301.6) and from the prohibition against allowing an addition to an existing structure located on an assessment and taxation lot that cannot be converted to a record lot (Sub-section 8103.3) to permit proposed one-story addition to the existing dwelling and the subdivision of the existing lot into three theoretical lots pursuant to Section 7615 in an R-1-A District at the premises 2329 Porter Street, N.W., (Square 2224, Lot 818).

HEARING DATE: February 20, March 19, May 14, May 21 and June 4, 1980  
DECISION DATE: June 4, 1980 (Bench Decision)

FINDINGS OF FACT:

1. The subject application was scheduled originally for public hearing on February 20, 1980. At the public hearing the applicant requested a continuance which was granted by the Board to March 19, 1980. At the March 19, 1980 public hearing, the applicant requested a further continuance and that the application be amended and readvertised. The Chair directed that the application be set for the public hearing of May 14, 1980 as amended. At the public hearing of May 14, counsel for the opposition requested a continuance since he had just been retained and was not prepared to go forward. The application was continued to May 21, 1980.

2. At the public hearing of May 21, 1980, the Board granted permission to the applicant to further amend the application to allow for no more than two dwelling units to be located on the site, and to create no more than two theoretical building sites pursuant to a "Declaration of Covenant" marked as Exhibit 25(A) of the record and for a variance from the side yard requirements to preserve an existing stone garage on the site.

3. The applicant submitted a revised set of plans for the proposed building addition which relocated the addition to the north-east side of the existing house. The plans submitted to the Zoning Administrator's office showed such addition located on the west side of the existing structure. These plans were accepted by the Board and marked as Exhibit 29 of the record.

4. The subject site is located to the east of Williamsburg Lane and to the north of Porter Street. It is bounded by R-1-A zoned lots, and has no street frontage. The property is known as 2329 Porter Street, N.W. It is in an R-1-A District.

5. The subject site is approximately 38,700 square feet in area. It is irregularly shaped and is improved with a two-story single family dwelling.

6. The applicant is requesting to build a 22.6 foot by 15.9 foot one story addition for use as a family room. The addition will be constructed of stone to match the existing dwelling and will have a tile roof.

7. The Zoning Regulations require that each lot to be used and occupied by a one family detached dwelling shall have street frontage measured along the street a distance equal to at least forty percent of the required minimum width of lot and in no case less than fourteen feet.

8. The existing structure located on the site was erected in 1907. This structure was located on old Lot 13. The present subject site was originally laid out as old Lots 12, 13 and 54 in Square 2224.

9. The streets and roadways leading to the subject site created as right-of-ways were Roosevelt Drive and Clifton Avenue. These rights-of-way have only been partially improved at this time with macadam and gravel.

10. In 1930 a plat was recorded with the Office of the Surveyor as part of the District of Columbia highway plan which envisioned a Quebec Street linkage with Porter Street, which would have provided direct access to the subject site via the public roadway system.

11. The Quebec Street linkage proposal was abandoned in 1953 when 24th Street, now Williamsburg Lane, was cut through. The present sites of street access to Porter Street and Williamsburg Lane has remained the same since that time.

12. As a result of the construction of Williamsburg Lane instead of the Quebec Street connector, the subject site is now "landlocked" for zoning purposes even though it contains a right-of-way for highway purposes which connects directly to Williamsburg Lane.

13. Without the granting of variance relief no building permits may be issued for the proposed building addition or for the additional dwelling unit proposed to be erected on the site.

14. A side yard variance was requested to permit an existing stone garage to be retained on the site. By consolidating the site into a single assessment and taxation lot, the historical lot division line in the site was removed. The applicant's request would permit the reinstatement of the historical boundary.

15. The applicant conducted negotiations with neighboring and abutting property owners for the development of the site. These negotiations resulted in the execution by the applicant of a "Declaration of Covenants" dated May 13, 1980 and an agreement by abutting property owners to support the application.

16. The proposed use of the site for a total of two dwelling units is far less dense than that permitted by the Zoning Regulations for an R-1-A parcel of this size.

17. The applicant submitted no architectural drawings for the proposed additional structure to be located on the site and requested the Board to approve the construction of the additional structure consistent only with the building parameters outlined contained in the Covenant and with no further restrictions on its design.

18. Several letters in support of the application were submitted to the Board from abutting and neighboring property owners.

19. Advisory Neighborhood Commission - 3F submitted no recommendation on the application. The single member district 3F01 recommended that the application be approved. The Board is required by statute to give "great weight" to the issues and concerns expressed only by the ANC as a body, not to a single member district.

20. There was opposition to the application by a property owner whose site is within the right-of-way leading from the subject site to Porter Street, said right-of-way being known as Clifton Avenue. The opposition argued that Clifton Avenue is a private road that belongs to the opposition and that any use of the road was done through the permission of the opposition. Approximately three neighboring property owners were granted permission to use Clifton Avenue. The opposition does not wish to extend this courtesy to the applicant. An action to quiet title to Clifton Avenue has been filed in the D.C. Superior Court by the opposition. The opposition was concerned about the potential of future development of larger tracts of undeveloped land within the vicinity of the subject site and the ability to use the subject contested private road for the access to such undeveloped tracts. There was no dispute as to the applicant's ability to utilize the Williamsburg Lane right-of-way, known as Roosevelt Drive.

21. The Board finds that the applicant has direct access to Roosevelt Drive from Williamsburg Lane, a public street. The Board ruled that it would only consider the impact of the applicant's proposal on neighboring properties in the subject application and that the question of the legality of the Clifton Avenue right-of-way from Porter Street, a public street, was more properly addressed in another forum.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking area variances, the granting of which requires a showing of a practical difficulty upon the owner of property which is inherent in the property itself.

The Board notes that the subject site is unique and affected by several extraordinary or exceptional conditions. The size of the lot is approximately 38,700 square feet which is far in excess of the minimum required for a detached dwelling in an R-1-A District. The subject site is landlocked under the Zoning Regulations in that it has no direct street access to public roadways. Although the site is landlocked it is serviced by private rights-of-way which give direct access to public streets. The site has had a unique development history and without the granting of variance relief no building permits may be issued for the proposed building addition or any other structure to be erected on the site. The Board concludes that the inability to use property in a manner otherwise permitted by the Zoning Regulations by the mere fact that there is no street frontage under the Regulations when, in fact, access to the public street system is provided constitutes a most compelling type of practical difficulty.

The side yard variance requested is necessary to permit the preservation of an existing stone garage on the site which would otherwise need to be demolished in order to have compliance with the Zoning Regulations.

The subject site is completely surrounded by R-1-A zoned and developed single family residential uses. The applicant's proposed building addition and proposal to construct an additional dwelling unit on the site would cause no substantial detriment to the public good nor substantially impair the intent, purpose and integrity of the Zone Plan.

In granting the application, the Board concludes that the applicant may construct on the subject site an additional structure anywhere within the building parameters set forth in the Covenant dated May 13, 1980 and that the Board retains no design control over such building since no architectural plans were submitted to the Board for said structure. Accordingly, it is ORDERED that the application, as amended, is GRANTED SUBJECT to the CONDITION that no exit or entrance of construction vehicles be made through the right-of-way described in the record as Clifton Avenue.

VOTE: 5-0 (Charles R. Norris, John G. Parsons, Connie Fortune, William F. McIntosh and Leonard L. McCants to GRANT).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: 28 JUL 1980

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."